

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

AHMAD ESKANDARI
MAZILANGHAN; LIDA PARISHROUY;
MILAD ESKANDARI MAZILANGHAN;
HAFEZ ESKANDARI MAZILANGHAN,

Petitioners,

v.

PETER D. KEISLER, * Attorney General,

Respondent.

No. 03-71650

Agency Nos. A75-523-231

A75-523-232

A75-523-233

A75-523-234

MEMORANDUM **

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 27, 2007***
Pasadena, California

Before: WALLACE, T.G. NELSON, and IKUTA, Circuit Judges.

* Peter D. Keisler, substituted for his predecessor Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*** This panel unanimously concludes this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Ahmad Eskandari Mazilanghan, a native and citizen of Iran, on behalf of himself and his family, petitions for review of a final order of removal order issued by the Board of Immigration Appeals (Board) on March 20, 2003. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition.

To qualify for withholding of removal, Mazilanghan must demonstrate that his “life or freedom would be threatened” if he is returned to Germany, on account of his “race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b). In addition, Mazilanghan must demonstrate that the agent of his persecution would be “the government or . . . persons or organizations which the government is unable or unwilling to control.” Reyes-Reyes v. Ashcroft, 384 F.3d 782, 788 (9th Cir. 2004) (internal quotation marks omitted). Mazilanghan has presented no argument that the German government was either directly involved in his alleged persecution, or that they were “unwilling or unable” to control those persons responsible for his alleged mistreatment. As a result, the argument is waived, see Martinez-Serrano v. INS, 94 F.3d 1256, 1259 (9th Cir.1996), and the Board’s decision stands on this independently dispositive ground.

Furthermore, substantial evidence supports the Board’s determination that the harm suffered by Mazilanghan in Germany did not rise to the level of

“persecution.” See Hoxha v. Ashcroft, 319 F.3d 1179, 1182 (9th Cir. 2003) (single act of physical violence along with harassment and threats did not compel a finding of past persecution). The Board made no mention of credibility, and so any error in the Immigration Judge’s adverse credibility determination is irrelevant.

Mazilanghan failed to raise any challenge to the Board’s determination that he is ineligible for asylum from Germany because he is firmly resettled in Germany, see 8 U.S.C. 1158(b)(1)(A), or to articulate a basis for relief under the Convention Against Torture, and so any such claims are waived. Mazilanghan’s due process challenges are “procedural in nature,” and are waived along with his remaining procedural claims because he failed to raise them to the Board. Barron v. Ashcroft, 358 F.3d 674, 678 (9th Cir. 2004); Martinez-Serrano, 94 F.3d 1256 at 1259.

PETITION FOR REVIEW DENIED.